

IN THE MATTER OF: The Nova Scotia *Human Rights Act* (the "Act")

- and -

IN THE MATTER OF: Board File No. 51000-30-H10-1765

BETWEEN:

Dino Gilpin
(Complainant)

- and -

Halifax Alehouse Limited
(Respondent)

- and -

The Nova Scotia Human Rights Commission
(NSHRC)

Summary of Facts

- [1] Dino Gilpin, at about 6:00 p.m. on Saturday, February 20th, 2010, entered the Halifax Alehouse ("Alehouse") alone to have a beer and some chicken wings. Mr. Gilpin, a Canadian who immigrated from Sierra Leone in 2003, is black. The Alehouse, relative to later in the evening, was quiet with its normal complement of early evening guests. Mr. Gilpin was then 32 years old. One must be at least 19 to drink in a licensed premises in Nova Scotia. The server, Stephanie Lent, asked him for proof of age. He produced various pieces of identification, most of which stated his birth date, but some of which had lapsed. Ms. Lent refused to serve him and asked him to leave. Mr. Gilpin lingered. Ms. Lent spoke to the bar manager, Shawn Murgatroyd. Mr. Murgatroyd told him to leave the Alehouse and then threatened to call the police to remove him. Mr. Gilpin remained. Mr. Murgatroyd called the police. A few minutes later, the police arrived, and escorted Mr. Gilpin from the Alehouse. Once he was outside, the police arrested him under the *Liquor Control Act* for being intoxicated in a public place. They took him to the lockup and held him overnight. In July, the court dismissed the public intoxication charge. Mr. Gilpin filed a complaint under the Nova Scotia *Human Rights of Act* that he had been discriminated against by reason of his colour.

- [2] We convened an inquiry at the Dartmouth Sportsplex on February 22, 2013 using the Restorative Inquiry model of dispute resolution. We heard from Mr. Gilpin, Ms. Lent, Mr. Murgatroyd, and the manager of the Alehouse, Mr. Peter Martell. Two others also participated; Mr. Jeremy White, the Director Licensing and Regulation for the Alcohol and Gaming Division of Service Nova Scotia and Mr. Gerald Hashey of the Human Rights Commission itself. Mr. White spoke to us about the rules, regulations and policies of the Authority as the regulator of licensed premises regarding drinking age. Mr. Hashey presented the results of a survey of the perception of discrimination by minorities. This survey was received into evidence.

The Issue

- [3] There are, in my view, two separate and distinct acts which may be regarded as being discriminatory.
1. the Alehouse discriminated against him because of his race by refusing him service; and
 2. that the Alehouse discriminated against him because of his race by calling the police.

Invoking the force of the state to forcibly remove someone from a private premises is not the same as simply refusing a patron service.

The Procedure

- [4] I have been appointed under the *Human Rights Act* to be, by myself, the "Board of Inquiry" and to determine whether the acts complained of were acts of discrimination. The hearing before me, proceeded in what was to me a novel fashion, and since I think the nature of the procedure is relevant to my opinion, I wish to say a few words about it.
- [5] Mr. Gilpin and the Alehouse proceeded, by agreement, before me in what is known as a Restorative Board of Inquiry. There are, needless to say, various procedural models for the attainment of justice. Canada's legal tradition is that of an adversarial procedure where the judge or adjudicator is presented with evidence through examination, and cross-examination. The procedure is a contest and while governed by the rules of procedure, evidence and ethics, neither party is expected to be kind to the other. The judge or adjudicator sits at the front. The parties are arrayed at separate tables in front of him. The witness sits to the side facing the parties and the judge. The truth, or at least the facts to be found by the judge, is thought

to emerge through the cut and thrust of the contending parties. Then, the judge makes findings of fact, applies the law and renders a judgment.

- [6] A Restorative Inquiry, however, proceeds informally. The parties and others who are to speak or have reason to be involved in the process, sit in a circle. Only the person who holds the talking piece, in our case a palm sized bear carved in black stone, speaks. The Board of Inquiry, acts as a interlocutor or moderator, asking questions himself and rephrasing and redirecting questions which some in the circle may have of others.
- [7] The Restorative procedure is based on the notion that we are, as social beings, all in relationships with one another. Jennifer Llewellyn and Bruce Archibald, of the Schulich School of Law, at Dalhousie have written:

This starting point raises a central question: what qualities of relationship do we require in order to promote and protect individual flourishing and well being? This is the central question of justice re-visioned relationally. The goal of justice is to achieve, protect and maintain just social relations. We know the basic requirements of such relationship from our experience of relationship that is harmful (marked by oppression, violence, abuse or neglect, etc.) From this knowledge we can derive the character of just social relationship. I refer to this as "equality of relationship" and by this I mean relationship in which the parties accord one another equal respect, concern and dignity. (Llewellyn, Government of Canada, Re-visioning Justice, Restorative Justice Week 2011)

Conceived of in this fuller sense, restorative justice is grounded in a relational conception of justice. Justice viewed through this lens is concerned with the harm to relationships resulting from wrongdoing. The task of justice in the face of wrongdoing is to restore those relationships harmed by wrong doing to ones of social equality. Social equality here refers to equality in relationship and is marked by mutual concern, respect and dignity. Archibald and Llewellyn (2006) 29 Dalhousie Law Journal.

- [8] These principles are reflected in the policy of the Human Rights

Commission instituting Restorative Boards of Inquiry. The Commission's Draft Framework and Procedures says:

The Human Rights Commission seeks to further human rights by promoting relationships based on dignity, respect, equality and fairness...

The restorative board of inquiry model, outlined here, seeks to foster respectful, equal, and responsible relationships as it addresses complaints.

- [9] Mr. Gilpin and the Alehouse were in a commercial relationship, but of a rather personal kind; that of a guest and a host in a licensed premises providing food and drink. Mr. Gilpin entered the Alehouse expecting to be received by his host and provided with wholesome food and drink. The Alehouse, in the course of its business, should welcome his presence as their guest. Mr. Gilpin is entitled to expect to be treated with consideration and respect. The Alehouse is entitled to expect that Mr. Gilpin will pay for the food and drink provided and will comply with the rules of the house and the law of the land.

Findings of Fact

- [10] The parties may, just the same, and in spite of the process, maintain irreconcilable perspectives on events. The restorative process and the *Human Rights Act* will then require some adjudication: Such is the case here. Mr. Gilpin says the Alehouse refused him service and called the police to remove him because of his race. The Alehouse says Mr. Gilpin was treated, in accordance with its policies, as anybody else would be treated.

Mr. Gilpin's Age

- [11] Mr. Gilpin does not look 16, 17, or 18. In other words, he looks like he is probably in his late twenties or early thirties. There is nothing boyish about his physique. Nor is there anything boyish about his physiognomy. In short, he looks his age; that is to say significantly older than 18.
- [12] Mr. Gilpin said he had been "carded" before and took no exception to being asked. He produced his expired Nova Scotia learner's driving license and an expired Nova Scotia identification card. The license and his identification card showed his picture and his age. Mr. Gilpin says, and I

accept, that he also showed his social security card and his health card. The social security card assists in his identification but has no picture or birth date. The health card had no picture either, but it showed his name and his birth date. He says, and Mr. Murgatroyd agreed, that he had also produced his Canadian Citizenship card which shows his birth date and his picture.

- [13] I can only say that the sum of these documents and his appearance were proof beyond any question that he was at least 19 years of age. In fact, he is and was, of course, over 19. I think even the Alehouse would accept that now. I understand why Mr. Gilpin, given the rejection of what is to me the proof and the truth, felt his race was the reason.
- [14] The Alehouse says it refused Mr. Gilpin service under its rigid policies towards documents in proof of age. For the Alehouse, the question is not whether the customer is of age, or the documents provide proof of age, but rather whether the documents meet their policies. The person's documents are assessed, not his or her age. The policies dictate that staff only consider specific documents as proof of age and those only if they are valid. If the documents themselves are not satisfactory to the Alehouse according to its policies, then the Alehouse will refuse the customer service. The server, Ms. Lent, says she followed the policies and refused him service.
- [15] In Mr. Gilpin's case, the Alehouse, under its policies, did not accept the Nova Scotia driver's license or the identification card since they had lapsed. They did not accept the social insurance card or the health card because the cards had no pictures. They did not accept the citizenship card because they were not familiar with it.
- [16] Mr. Martell in his testimony forcefully stated the Alehouse policies. They were also concisely stated in a letter to the Human Rights Commission which, I think, is worth quoting in full:

Our policy is to obtain identification from customers before serving them. The general guideline is to ask everyone unless they are obviously of age. This means that anyone of any age may be asked because this judgment is subjective. Patrons may also be asked to engage them to judge attitude, intoxication, etc. Once asked, there isn't room to manoeuvre. A valid photo identification must be produced. Our staff are trained to take drivers licenses and passports, a secondary

identification can be accepted in support of a valid driver's license or passport only . If our staff fail to follow or guidelines, they will be terminated. Our motto is "If in doubt, keep them out!" We are heavily scrutinized by the AGD and follow their guidelines. They tell us not to accept expired ID's and we don't. My staff was following my directives.

Calling the Police

- [17] Mr. Murgatroyd's evidence of Mr. Gilpin's behaviour prior to the call to the police varies considerably from that of Mr. Gilpin and indeed Ms. Lent's.
- [18] Mr. Gilpin says that he was drinking his water when Mr. Murgatroyd bluntly told him he had to leave or he, Mr. Murgatroyd, would call the police to get him out. Mr. Gilpin says he told Mr. Murgatroyd to go ahead; he had done nothing wrong and had nothing to fear from the police. No doubt he lingered over his water. Mr. Murgatroyd called the police. All say he walked quietly out the door with the police when they arrived to escort him from the premises.
- [19] Mr. Gilpin says he asked for a glass of water and Ms. Lent provided it to him. Ms. Lent says she provided him with water and a menu when he first sat down. Mr. Murgatroyd says Ms. Lent gave him the water after she had refused him service and asked him to leave. In any event, he had water before him.
- [20] Ms. Lent testified by phone. She says that she asked Mr. Gilpin for proof of age when he ordered beer and wings. He produced a number of documents, some which had expired, and none of which were acceptable to her. She says she asked Mr. Gilpin to leave and when he did not, she passed the issue over to Mr. Murgatroyd. She is, she said, a small woman and not able to physically remove anyone. She says that once she passed Mr. Gilpin's presence to Mr. Murgatroyd, she had other tables to attend to, and she did not pay attention. She, to the best of her recollection after three years, does not think he was not rude to her or yelled. Mr. Gilpin, she says, just wanted to give her satisfactory identification. Ms. Lisa Teryl, counsel to the Commission, asked Ms. Lent what makes this refusal stand out in her mind because the incident as she described it was not that dramatic. Ms. Lent agreed the incident was not dramatic and was not that memorable to her at all. Ms. Lent says she cannot remember what Mr.

Gilpin looked like, and cannot remember what identification cards he produced.

- [21] Mr. Murgatroyd says Ms. Lent came to him to say she had a customer who was not producing the right identification. Some had expired, and she was not familiar with another. Mr. Murgatroyd tells a different story from there on. Mr. Murgatroyd says that when he came over to Mr. Gilpin, Mr. Gilpin had his head phones on and was singing quite loudly. Mr. Gilpin, he says, told him he had already produced his identification to Ms. Lent. Mr. Murgatroyd says he told Mr. Gilpin that he was going to have to show identification or leave. Mr. Gilpin became loud creating a scene. Mr. Murgatroyd says he decided to give Mr. Gilpin some time.
- [22] When Mr. Murgatroyd next looked, Mr. Gilpin had a glass of water. He asked Ms. Lent why she had given it to him. He says Ms. Lent told him she was nervous dealing with Mr. Gilpin.
- [23] Mr. Murgatroyd says he gave Mr. Gilpin more time, but when approached again, Mr. Gilpin got "really loud" causing a "huge commotion" saying he did not have to leave. Mr. Murgatroyd gave him the option of leaving on his own, or Mr. Murgatroyd would call the police. He says he gave Mr. Gilpin still another opportunity to leave, but Mr. Gilpin was still "ranting and raving". Mr. Gilpin was causing such a fuss that people in nearby tables began to move away. Mr. Murgatroyd called the police.
- [24] I accept the evidence of Mr. Gilpin and Ms. Lent regarding Mr. Gilpin's behaviour. I find Ms. Lent asked Mr. Gilpin for identification, and when he was unable to produce identification satisfactory to her, she reported the fact to Mr. Murgatroyd. I find Mr. Murgatroyd simply approached Mr. Gilpin and told him to leave or the police would be called. I find that the worst that can be said of Mr. Gilpin is that he overstayed, lingering over his water. I find that he was calm and behaved appropriately throughout. I find that he did not become loud, rant and rave or cause a huge commotion. I find he showed no signs of intoxication and was not in fact intoxicated. Not even Mr. Murgatroyd suggests that he was.
- [25] Mr. Gilpin and Ms. Lent's evidence is substantially the same. Both say Ms. Lent refused service and then passed the matter of having him leave the Alehouse to Mr. Murgatroyd. They differ with Mr. Murgatroyd about what happened then.
- [26] Mr. Murgatroyd says he came to Mr. Gilpin and asked for his identification.

He says Mr. Gilpin refused him. I find, however, that Mr. Murgatroyd did not ask Mr. Gilpin for his identification. Mr. Gilpin did not object to producing his cards and was anxious to satisfy Ms. Lent. I am satisfied he would have rather greeted Mr. Murgatroyd's request for his proof of age with relief. He knew he had any amount of it, including a Canadian Citizenship card with his picture and birth date, and that Ms. Lent had rejected it. The intervention of a senior employee would have been welcome. That Mr. Gilpin, wearing earphones and singing, would then refuse on the grounds he had already shown proof of age to Ms. Lent, strikes me as being quite unlikely.

- [27] Mr. Murgatroyd describes a protracted and loud aftermath leading to the arrival of the police. Ms. Lent says the refusal of service was undramatic and fairly routine. A black man standing up, being "really loud", causing "a huge commotion", "ranting and raving" and causing a scene to the discomfiture of people at nearby tables would not be routine. I am satisfied that if such a scene had occurred, Ms. Lent would have remembered. Ms. Lent, in her evidence, was cautious and, if anything, qualified her evidence in favour of the Alehouse, an employer, it appeared to me, that she continued to respect.

Analysis

- [28] The Alehouse publicly humiliated Mr. Gilpin. The Alehouse, in their social relations with Mr. Gilpin, failed to accord Mr. Gilpin the respect due him as a guest in their premises. As Maya Angelou has said:

I have learned that people will forget what you said,
people will forget what you did, but people will never
forget how you made them feel.

Mr. Gilpin wept as he told his story. He will never forget how the Alehouse made him feel.

- [29] The dimension of the Alehouse's treatment of Mr. Gilpin that brings him before me, however, is his race and it is this racial dimension I must address under the law.

The Law

[30] The Nova Scotia *Human Rights Act* R.S.N.S. 1989 c. provides:

2 The purpose of this Act is to

- (a) recognize the inherent dignity and the equal and inalienable rights of all members of the human family;
- (b) proclaim a common standard for achievement of basic human rights by all Nova Scotians;
- (c) recognize that human rights must be protected by the rule of law;
- (d) affirm the principle that every person is free and equal in dignity and rights;

For the purpose of this Act, a person discriminates where the person makes a distinction, whether intentional or not, based on a characteristic, or perceived characteristic, referred to in clauses (h) to (v) of subsection (1) of Section 5 that has the effect of imposing burdens, obligations or disadvantages on an individual or a class of individuals not imposed upon others or which withholds or limits access to opportunities, benefits and advantages available to other individuals or classes of individuals in society. 1991, c. 12, s. 1.

[31] A leading Human Rights decision states the principles this way; *Maynard v. Toronto Police Services Board*, 2012 HRTO 1220:

[145] It is well established that human rights legislation is to be given a broad, liberal and purposive interpretation. In addition to the specific provisions related to discrimination, the *Code* contains a preamble which reflects the kinds of experiences the legislation is directed at remedying. It speaks not just to equality in relation to the law, but also to the values of understanding, mutual respect and dignity and the necessity to ensure that every citizen has the opportunity to contribute fully to the community. The analysis of a claim of discrimination under the *Code* must be animated by these important principles.

[146] The Supreme Court of Canada in *F.H. v. McDougall*, 2008 SCC 53 (CanLII), [2008] 3 S.C.R. 41 ("*McDougall*") confirmed that the "balance of probabilities" standard of proof applies to a civil cases, and, in order to satisfy this standard, evidence must be "sufficiently clear, convincing and cogent".

[147] There is no dispute that the provision of policing services is a service within the meaning of the *Code*.

[148] In *Shaw v. Phipps*, 2012 ONCA 155 the Court of Appeal re-stated the long-standing principle from the decision of the Supreme Court of Canada in Ontario *Human Rights Commission v. Simpsons-Sears Ltd.*, [1985] 2 S.C.R. 536, that the onus rests on the complainant to establish a "*prima facie*" case of discrimination which is described as "one which covers the allegations made and which, if they are believed, is complete and sufficient to justify a verdict in the complainant's favour in the absence of answer from the respondent"

[32] Human Rights legislation is quasi-constitutional and must be given a broad interpretation mindful of the purposes for which it was established. The complainant need only prove that there was an element of discrimination in the action complained of, or to put it another way, that discrimination was a factor in the action complained of. The motives or intentions of the respondents to the complaint are not relevant; it is the effect of the discriminatory practice which is significant. The law provides the complainant with a reverse onus; once the complainant has established a *prima facie* case of discrimination, then it falls to the respondent to establish that it cannot reasonably accommodate the complainant. One may infer a discriminatory intent from abusive behavior. Employers are responsible for providing a service free of discrimination. Employers are liable for the discriminatory practices or actions of their employees.

[33] The Supreme Court of Canada said in *Robichaud v. Canada* [1987] 2 S.C.R. 84:

9. It is worth repeating that by its very words, the Act (s. 2) seeks "to give effect" to the principle of equal opportunity for individuals by eradicating invidious discrimination. It is not primarily aimed at punishing

those who discriminate. McIntyre J. puts the same thought in these words in *O'Malley* at p. 547:

The Code aims at the removal of discrimination. This is to state the obvious. Its main approach, however, is not to punish the discriminator, but rather to provide relief for the victims of discrimination. It is the result or the effect of the action complained of which is significant.

10. Since the Act is essentially concerned with the removal of discrimination, as opposed to punishing anti-social behaviour, it follows that the motives or intention of those who discriminate are not central to its concerns. Rather, the Act is directed to redressing socially undesirable conditions quite apart from the reasons for their existence. *O'Malley* makes it clear that "an intention to discriminate is not a necessary element of the discrimination generally forbidden in Canadian human rights legislation" (at p. 547). This legislation creates what are "essentially civil remedies" (p. 549). McIntyre J. there explains that to require intention would make the Act unworkable. ...

15.Indeed, if the Act is concerned with the effects of discrimination rather than its causes (or motivations), it must be admitted that only an employer can remedy undesirable effects; only an employer can provide the most important remedy--a healthy work environment...

17. Hence, I would conclude that the statute contemplates the imposition of liability on employers for all acts of their employees "in the course of employment", interpreted in the purposive fashion outlined earlier as being in some way related or associated with the employment. It is unnecessary to attach any label to this type of liability; it is purely statutory. However, it serves a purpose somewhat similar to that of vicarious liability in tort, by placing responsibility for an organization on those who control it and are in a position to take

effective remedial action to remove undesirable conditions...

- [34] The work place is the context of the above. The same principles apply to a business offering services to the public. The owner of the business is responsible to provide its services without discrimination, and if its employees fail in this, the employer is vicariously liable.

The Refusal of Service

- [35] I am not satisfied in the end that the Alehouse employees, in refusing him service, actually discriminated against Mr. Gilpin on the basis of his race. Mr. Gilpin established a *prima facie* case of discrimination, but I accept the explanation given by the Alehouse. I accept that the refusal of service was within the policies of the Alehouse and that the Alehouse is driven by the prospect that the Alcohol and Gaming Division may suspend their license to sell liquor.
- [36] Having said that, I add that I do not wish to be understood as approving the Alehouse's refusal to serve Mr. Gilpin. The Alehouse enforces its policies with bravado. It is aggressive and even arrogant. It is hard-nosed and, in its thinking, concrete.
- [37] Mr. White, of the Nova Scotia Alcohol and Gaming Division, testified to a moderate and reasonable approach to regulation. He explained that the primary goal was to educate and assist licensees with their compliance, not to catch them out and then punish them for violations. The Division provides guidelines with respect to the documents that may serve as proof of age, but these are only guidelines and are provided in the spirit of education and assistance. In this particular case, I am satisfied that the risk that the Alehouse would run into trouble with the Alcohol and Gaming authority for serving Mr. Gilpin was not significant. It is a complete answer, of course, that he was in fact 32.
- [38] I recognize that running a late night bar in downtown Halifax may not be a job where courtesy and respect extended to customers is always appreciated, and there are no doubt many youngsters making a game of trying to beat the system, but surely Alehouse staff, especially at a relatively quiet time, could be trained to say "I am sorry, sir, the policies of our bar require current proof of age in documents that are acceptable to us, and since you do not have those documents, I am sorry we cannot serve you." Then, someone might say, "I am sorry, sir, but liquor regulations dictate

that no one under age may even be on the premises without a parent or guardian, and since we are not satisfied as to your age, we have to ask you to leave.” The Alehouse policy to Mr. Gilpin, however, and I suppose towards others as well, appears to be “never explain, never apologize”.

Calling the Police

- [39] This hard-nosed attitude towards customers underlay the decision to call the police. The question is whether the Alehouse’s hard policies justify, as non-discriminatory, their calling the police to remove Mr. Gilpin. The study presented by Mr. Hashey demonstrates once more that minorities perceive discrimination in their day to day interactions with others. Discrimination is seldom overt. It manifests itself in failures to treat people equally, with concern, respect and dignity. Sometimes minorities are simply ignored, epitomized in the title of Ralph Ellison’s novel, “The Invisible Man.” Sometimes minorities are simply treated rudely, leaving a person to wonder whether all are treated that way or discrimination underlies the treatment.
- [40] The law recognizes the subtlety of discrimination and requires only that an element of discrimination be found, not that discrimination be the only or even the predominant factor. Indeed, the law recognizes that discrimination need not even be conscious or intended.
- [41] In the end, considering all of the above, I am not persuaded that the Alehouse can rebut the presumption of discriminatory behaviour that arises, in my opinion, on the facts of this case with the call to the police. Indeed, I am satisfied that the the Alehouse in doing so committed a discriminatory act. Mr. Gilpin is quietly, and soberly, lingering over his water. Rather than leaving him alone until he left, or taking the time and extending the courtesy to explain to this 32 year old man why the Alehouse, under its policies, has not accepted his proof of age, that as a result an assumption has been made that he is not of age, that under the law he may not remain without a parent or guardian and then give him an opportunity to withdraw with dignity, the Alehouse, I find, peremptorily tells him to leave and when he delays, calls the police. The Alehouse seems indifferent to what happened to Mr. Gilpin or how he might feel about it.
- [42] Mr. Martell argues that the Alehouse is in the business of selling people beer and chicken wings and has no interest in refusing any customers. The Alehouse argues, in effect, that Mr. Gilpin should not have taken any of this personally or as a racial slight, that this is only business and he should get

over it.

- [43] I, however, cannot rationally understand calling the police outside of the context of race. This failure of courtesy, this failure to accord Mr. Gilpin respect, concern and dignity, and the decision to humiliate him can only be understood, at least in part, as having been a function of Mr. Gilpin's colour. I am satisfied that, by calling the police, the Alehouse violated the letter and spirit of the HRA and in particular, the Alehouse discriminated against Mr. Gilpin by imposing the police on him because of his colour.
- [44] High-handed and arbitrary actions have human consequences. All of us expect to be treated fairly, equally and with dignity. Professor Llewellyn argues that this is what justice is about. Civility, regardless of race, is important. Being considerate of others, being polite to others, is important for everyone. The relational theory of justice, and indeed most ethical systems, require it of us all.
- [45] I dare to suggest civility is particularly important in relations with minorities based on the perception, justified by experience, that discrimination underlays rude treatment. If that means that those providing public services must be more sensitive to the feeling of others in their dealings with minorities because of the perception, then so be it. Henry Jordan said that Vince Lombardi did not discriminate; he treated all the Green Bay Packers the same ... like dogs. While that might be fine in the locker room, it is not a rationale nor a justification for rude treatment of anyone in the provision of services or in the work place.

Remedies

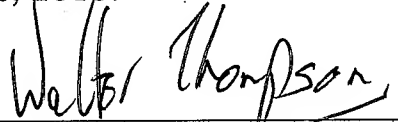
- [46] I ask counsel to suggest how, in a manner consistent with the relational principles upon which this process has been based, we should proceed from here.

A Comment on the Process

- [47] I feel obliged to make a comment on the process we followed. Access to justice and the cost of proceedings are a major concern of the community at large, the bench and the bar. So much of the cost arises out of the procedures we have inflicted on ourselves, some of which are thought essential to justice. This process, on these facts and with these parties, has been conducted as efficiently and as cost effectively as possible. For my own part, I do not find myself any less informed than I would have been had

the process, following traditional procedures, been carried out over days. I, for myself, do not believe that justice, through the process adopted here by the parties as a means of informing an adjudicator of the facts and the law, has suffered at all, or that my opinion, however inadequate it may be, would be any better if the traditional trial process had been followed. I am indebted to counsel for their competence and professionalism in bringing the matter forward in the manner they did and conducting it in the manner that they did.

Dated at Halifax, Nova Scotia the 13th day of June, 2013.

A handwritten signature in black ink, reading "J. Walter Thompson". The signature is written in a cursive, slightly stylized font. The first name "J." is small and followed by "Walter", and "Thompson" is written in a larger, more prominent script. The signature is positioned above a horizontal line.

J. Walter Thompson, Q.C.
Board Chair